that of their ownership. This compelled producers to sell their product to the pipe line companies or to interests identified with them and thus tended directly to the condition of monopoly which the amendment of 1906 was designed to destroy. The case affords a happy illustration of the present marked disposition of the United States Supreme Court to save the constitutionality of remedial legislation, notwithstanding its vulnerability to attack upon technical grounds.

The decision would seem to indicate that the recent California statutes impressing pipe lines with the character of common carriers will be sustained.[13]

A. P. M.

CONSTITUTIONAL LAW: REGULATION OF CHARGES.—As early as the reign of Edward II we find an act of parliament regulating charges.[1] Gradually the scope of regulation was extended[2] until many of our present day subjects have their prototypes in the past. But regulation in those days proceeded, not upon the modern principle of public interest and welfare but upon the strange doctrine that every commodity has its just and true price, and that determination by public authority was the best way of getting at this price.[3] Although that doctrine has long been abandoned in England and the resulting statutes have been repealed, the final moulding of judicial opinion on the subject in the United States has been influenced by this medieval legislation.[4]

One of the earliest rate-fixing cases in the United States allowed the legislature to fix the tolls of a turn-pike corporation;[5] since that time rate regulation has been exercised in an ever-increasing number of business enterprises—including telephone[6] and telegraph[7] companies, water,[8] gas[9] and electric light[10] corporations, and finally in the case of insurance companies.[11] The

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[13] 1913 Stats. Cal., chs. 285, 327.

[1] Freund, Police Power, § 374.

[2] 6 Henry VIII, cap. 7, on regulating fares of Thames watermen; 25 Henry VII, cap. 2, on regulating prices of victuals.

[3] Cunningham, Growth of English Commerce, vol. 2, p. 232.

[4] Munn v. Illinois (1876), 94 U. S. 113, at p. 125, 24 L. Ed. 77.

[5] Perrine v. Chesapeake & Delaware Canal Co. (1850), 9 How. 172, 13 L. Ed. 92.

[6] Hockett v. State (1886), 105 Ind. 250, 5 N. E. 178, 55 Am. Rep. 201.

[7] Western Union Tel. Co. v. Myatt (1899), 98 Fed. 335.

[8] Spring Valley Water Works v. Schottler (1883), 110 U. S. 347, 28 L. Ed. 173, 4 Sup. Ct. 48.

[9] Richman v. Consolidation Gas Co. of N. Y. (1906), 100 N. Y. Supp. 81, 114 App. Div. 216; Johnston's Appeal (1886), 4 Sad. 215, 7 Atl. 167.

[10] Cincinnati etc. R. R. Co. v. Village of Bowling Green (1879), 57 Ohio St. 336.

[11] R. R. Commission Cases (1885), 116 U. S. 307, 325, 331, 29 L. Ed. 636, 6 Sup. Ct. Rep. 334; Smyth v. Ames (1897), 169 U. S. 466, p. 523, 42 L. Ed. 819, 18 Sup. Ct. Rep. 418.

only limitation placed by the courts on this power to regulate is that the rate be reasonable and not confiscatory, so that property be not taken without due process of law.[12]

Growing up side by side with the obligation to conform to rate-regulation has been the obligation to render to all alike "equal service",[13] included in which is the obligation not to charge any one person more than another for the same thing or service,[14] the object being, of course, to prevent discrimination in a business in which the public has an interest, and in which every member of the public has a right to expect the same treatment that his neighbor gets.

Pinney & Boyle Co. v. Los Angeles Gas & Electric Corporation[15] is an instructive illustration of the application of the general principles above stated. An ordinance of the city of Los Angeles prescribed, *inter alia,* the rates which defendant, together with other public utilities, could charge for electricity during the coming year. A consumer resisted the constitutionality of this ordinance, on the ground that the "only reasonable use of the police power in the matter of rate fixing is to establish the maximum charge which the public utility may make, leaving it open to the public utility by agreement to fix a less charge for an individual consumer". No more forceful answer to this contention can be made than the argument given by the court: "The untenableness of this position must become apparent when a moment's consideration is given to the fact that one of the primary and most important objects to be attained by rate regulation is the prevention of discrimination. It must be quite clear that to hold that the rate fixing power goes no farther than to name an amount beyond which a charge may not be made, leaves the utmost room for abuse by way of favoritism and discrimination within that limit. It is, in practical effect, a denial of the existence of the rate-fixing power itself." The holding of the court on this point is in accord with the adjudicated cases.[16]

A novel point arose from a strange provision of the ordinance, allowing the public service utility to apply for a reduction of rates, and denying that right to the consumer. This provision, it was objected by a consumer, violated the federal constitution,[17] because discriminatory and a denial of the equal protection of the law.

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[12] German Alliance Ins. Co. v. Lewis (April 20, 1914), 233 U. S. 389, 34 Sup. Ct. Rep. 612.

[13] Inter-Ocean Pub. Co. v. Associated Press (1900), 184 Ill. 438, 48 L. R. A. 568, 56 N. E. 822, 75 Am. St. Rep. 184.

[14] Commonwealth v. Morningstar (1891), 144 Pa. St. 103, 22 Atl. 867.

[15] (June 10, 1914), 47 Cal. Dec. 699, 141 Pac. 620.

[16] Budd v. New York (1891), 143 U. S. 517, 36 L. Ed. 247, 12 Sup. Ct. Rep. 468; Brass v. North Dakota (1893), 153 U. S. 391, 38 L. Ed. 757, 14 Sup. Ct. Rep. 857; Munn v. Illinois, supra, note 4.

[17] U. S. Const., 14th Amendment.

A closer question would be presented if by the ordinance the public utility were given the power to apply for an *increase* of rates, without a corresponding power in the consumer to apply for a reduction. Even in such a case, there is a well-considered dictum[18] which would seem to uphold its constitutionality. But the actual provision in the Los Angeles ordinance only allows the public utility to petition for a *reduction* of rates; therefore it is difficult to see wherein the consumer is deprived of the equal protection of the law. In fact, it is more difficult to see wherein the consumer does not get an added protection, as against the producer.

In this view of the matter, it is submitted the court rightly overruled the consumer's objection; for to constitute unlawful discrimination within the meaning of the equal protection clause of the 14th amendment, the "discrimination must be in some measure unjust and oppressive".

J. C. A.

CONSTITUTIONAL LAW: VALIDITY OF "RED LIGHT LAW": TAXATION.—The "Red Light Bill"[1] which became a law at the last session of the California legislature but is being held in abeyance by referendum petition until the general election on November 3, 1914, is similar in most respects to the "Red Light Law" of Washington.[2] The act provides for the abatement as a nuisance of all places wherein or upon which acts of lewdness occur. The abatement is brought about by an injunction suit upon the complaint of the district attorney, or of any citizen of the county wherein the nuisance exists, and results in an order to close the building or place against any use whatever for one year. If the court is convinced of the good faith of the owner of the building, he may secure the release thereof by filing a bond to the full value of the property, conditioned that he will immediately abate any such nuisance. Fines for contempt of orders of the court are provided for and constitute a lien on the building.

Apparently no serious constitutional questions are likely to arise, inasmuch as a similar law has been sustained by the Supreme Court of Washington in *State ex rel. Kern, Pros. Atty., v. Jerome et al.*,[3] on what seem sound reasons, and in a case where the only really debatable provision of the law seems to have been a clause not found in the California statute, providing for the assessment of a deterrent tax of a substantial amount against the building and owner or agent thereof. The constitutionality of that tax was

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[18] Indiana Natural etc. Gas Co. v. State ex rel. Ball (1902), 158 Ind. 516, 63 N. E. 220, at p. 222.

[1] 1913 Stats. Cal. 20.

[2] Wash. Laws of 1913, ch. 127.

[3] (June 29, 1914), 141 Pac. 753. See also State v. Lane (Minn., June 12, 1914), 147 N. W. 951, and State v. Gilbert et al. (Minn., June 12, 1914), 147 N. W. 953.